

Remarks

Claims 15-16, 25-26 and 43-44 are presented for examination in the present application. Claims 1-14, 17-24, and 30-42 are canceled without prejudice. Claims 27-29 are withdrawn. Applicants reserve the right to pursue the cancelled and withdrawn claims in one or more timely-filed divisional and/or continuation applications. Claims 43-44 are new. No new matter has been added by any of the amendments. Claim 16 is independent.

Claim 16 has been amended to incorporate the features of claims 41-42. Claim 16 has also been amended to clarify that **each** slit is contained within the pattern of 12 radial extensions and that **all** of the slits are contained within the pattern of 12 radial extensions. Because of the cancellation of claim 41, claim 15 has been amended to now depend from claim 16.

In the Office Action, in paragraphs 3-4 on pages 2-5, claims 15-16, 25-29 and 41-42 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,499,729 to Greenwood et al. (Greenwood).

The rejection as it would apply to the amended and new claims is respectfully traversed and reconsideration is requested.

Applicants submit that amended claim 16 is not disclosed or suggested by Greenwood.

First, Greenwood does not disclose or suggest a series of 12 radial extensions. While the Office Action points to Figure 15 of Greenwood showing that "the **portions** of the pattern which form an "X" and a "+" can be considered to form for radial extensions combined, **each** of said series of radial extensions having an equal number of slits", this does not meet the features now recited in independent claim 16. Specifically, drawing an "X" or "+" through a **portion** of the

pattern of Figure 15 of Greenwood **does not** yield 12 radial extensions **nor** result in the situation where **each of the slits** are contained in the pattern.

Second, even drawing the patterns as proposed by the Office Action through the configuration set forth in Figure 15 of Greenwood **does not result in all of the slits** of Figure 15 of Greenwood being placed on the series of "radial" extensions. Thus, this feature of claim 16 is likewise not disclosed or suggested in Greenwood.

Third, any radial pattern which could be created in Figure 15 of Greenwood to contain 12 equally spaced radial extensions could **not produce** a pattern wherein **each radial extension** would contain an **equal number of slits**. Thus, this feature of claim 16 is additionally not disclosed or suggested in Greenwood.

In addition, new claim 44, which recites that the slits are perpendicular to the radial extensions, is neither disclosed nor suggested by Greenwood. In Greenwood, slits are only shown in Figures 4 and 11. In Figure 4 **all of the slits** are **parallel to each other**, and would not align perpendicularly to any configuration of radial extensions which could be drawn. In Figure 11, all of the slits are in a radial pattern which would result in the **all of the slits being parallel to any radial extensions drawn**. In neither instance does Greenwood disclose or suggest the configuration recited in new claim 44.

The Office Action states that Official notice is taken that "providing the perforations (which includes the slits) in such a pattern is merely one of a myriad of such known patterns and it is respectfully submitted that providing such a pattern amounts to a mere matter of design choice to one having ordinary skill in the art and thus obvious to one having ordinary skill in the art." (page 5, fourth full paragraph)

However, the presently claimed invention is **seeking to achieve an optimal airflow**. Applicants respectfully submit that patterns to achieve an optimal airflow are not of such a notorious character so as to be instantly and unquestionably recognized as "well-known" in the art.

Moreover, in the Specification, **applicants state that a series of 12 radial extensions** equally circumferentially angularly spaced 30° from each other **provides optimal airflow**.

"As shown in FIG. 1, slits 18 preferably are arranged in a starburst pattern having a series of 12 radial extensions equally circumferentially angularly spaced 30° from each other and each having three or four equally radially spaced individual slits 18 and underlying depressions 20. **It has been found that this arrangement of slits 18 provides optimal airflow.**"
(page 6, line 33 through page 7, line 5)

Statements of unexpected results or superiority contained in applicants' disclosure are accorded weight on the question of whether a disclosed invention is obvious. Indeed, it is well-settled that statements in a patent application, executed under oath, should be accorded the same force and effect as a signed declaration. See, e.g., In re Hyson, 172 U.S.P.Q. 399 (CCPA 1972) (the Court equating statements contained in the Specification and Rule 132 affidavits); In re Clinton et al., 188 U.S.P.Q. 365 (CCPA 1976) (the Court stating "absent any evidence to the contrary, we accept the statements [in the Specification] as proof that the claimed final moisture content is critical"); Wettstein et al. v. Campbell et al., 139 U.S.P.Q. 341 (P.O. Bd. Pat. Int. 1962) (the Board reversing the primary Office Action who was unwilling to assume as true a statement in the Specification regarding the effect of a microorganism upon a compound. The Board stated "they [the statements] must be accepted in the absence of proof to the contrary as would a sworn statement"); Parker v. Biel, 195 U.S.P.Q. 613 (P.O. Bd. Pat. Int. 1961) (the Board stated "we must accept the statements of utility as sufficient because an applicant must be assumed to know and understand the nature and truth of the statements made in his Specification");

Bluestone v. Schmerling, 121 U.S.P.Q. 417 (CCPA 1959); In re Chilowsky, 108 U.S.P.Q. 321 (CCPA 1956); and Pines v. McAllister, 89 U.S.P.Q. 312 (CCPA 1951) ("we must accept the statement [in the Specification] as true, or at least accord it probative value equal to that of his affidavit").

Accordingly, it is respectfully submitted that the Greenwood does not disclose or suggest claim 16. It is further respectfully submitted that claims 15, 25-26 and 43-44, which depend from claim 16, are patentable over Greenwood.

Thus, Applicants respectfully request favorable reconsideration and withdrawal of all rejections of the pending claims. If for any reason the Examiner feels that consultation with Applicants' attorney would be helpful in the advancement of the prosecution of this application, the Examiner is invited to call the telephone number below.

The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §§1.16 and 1.17 which may be required with this communication or during the entire pendency of the application, or credit any overpayment, to **Deposit Account No. 01-0467** in the name of Ohlandt, Greeley, Ruggiero & Perle, L.L.P.

Respectfully submitted,

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